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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,737	08/25/2003	Arvind D. Patel	11836.0753.NPU500	2299
26722 7590 01/29/2007 OSHA LIANG/MI ONE HOUSTON CENTER SUITE 2800 HOUSTON, TX 77010			EXAMINER FEELY, MICHAEL J	
			ART UNIT	PAPER NUMBER
			1712	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/29/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/647,737

Applicant(s)

PATEL ET AL.

Examiner

Michael J. Feely

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20060522.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Pending Claims

Claim 21 is pending.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 23, 2006 has been entered.

Response to Amendment

2. The rejection of claims 1, 3-9, 11-17, 19, and 20 under 35 U.S.C. 112, second paragraph, has been rendered moot by the cancellation of these claims.

3. The rejection of claims 1 and 3-6 under 35 U.S.C. 102(b) as being anticipated by Reddie et al. (US Pat. No. 2,994,660) has been rendered moot by the cancellation of these claims.

4. The rejection of claims 1, 3-6, 9, 11-14, 17, 19, and under 35 U.S.C. 102(b) as being anticipated by WO 89/11516 has been rendered moot by the cancellation of these claims.

5. The rejection of claims 1, 3-7, 9, 11-15, 17, 19, and 20 under 35 U.S.C. 102(b) as being anticipated by Coates et al. (US Pat. No. 4,941,983) has been rendered moot by the cancellation of these claims.

6. The rejection of claims 1, 3, and 4 under 35 U.S.C. 102(b) as being anticipated by Foley (US Pat. No. 3,728,277) has been rendered moot by the cancellation of these claims.

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7. The rejection of claims 9, 11-14, 17, 19, and 20 under 35 U.S.C. 103(a) as being unpatentable over Reddie et al. (US Pat. No. 2,994,660) has been rendered moot by the cancellation of these claims.

8. The rejection of claims 1, 7-9, 15, and 16 under 35 U.S.C. 103(a) as being unpatentable over Foley (US Pat. No. 3,728,277) has been rendered moot by the cancellation of these claims.

Claim Rejections - 35 USC § 112, 2nd paragraph

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear if "C₁₂-C₂₂" limitation is with respect to the overall *dimer/trimer polycarboxylic fatty acid* or with respect to *the monomer unit of the dimer/trimer polycarboxylic fatty acid*.

Claim Rejections - 35 USC § 102/103

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by, or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Van Slyke (US Pat. No. 6,017,854).

Regarding claim 21, Van Slyke discloses: (21) a drilling fluid (column 2, lines 33-52; column 3, lines 33-65) comprising:

- (A) an oleaginous fluid (column 2, lines 33-52; column 3, lines 33-65), wherein the oleaginous fluid is the continuous phase of the drilling fluid (column 1, lines 1-20) and wherein the oleaginous fluid comprises from about 30% to about 100% by volume of the drilling fluid (column 3, lines 33-65) and the oleaginous fluid of a material selected from the group consisting diesel oil, mineral oil, synthetic oil, esters, ethers, acetals, di-alkylcarbonates, olefins, and combinations thereof (column 5, line 49 through column 6, line 15);
- (B) a non-oleaginous fluid (column 2, lines 33-52; column 3, lines 33-65), wherein the non-oleaginous fluid is the discontinuous phase of the drilling fluid (column 1, lines 1-20), wherein the non-oleaginous fluid comprising from about 1% to about 70% by volume of said drilling fluid (column 3, lines 33-65) and the non-oleaginous fluid is selected from the group consisting of fresh water, sea water, a brine containing organic or inorganic dissolved salts, a liquid containing water-miscible organic compound, and combinations thereof (column 3, lines 33-65; column 6, line 16 through column 11, line 28);
- (C) an organophillic clay (column 3, lines 33-65), wherein the organophillic clay is present in a concentration of about 0.1% to about to about 6% by weight (column 12, lines 32-46);

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- (D) a primary emulsifier (column 2, lines 33-52; column 3, lines 33-65), wherein the primary emulsifier is in sufficient concentration to stabilize the invert emulsion (column 13, lines 3-23);
- (E) a weighting agent (column 3, lines 33-65), wherein the weighting agent or bridging agent is selected from the group consisting of galena, hematite, magnetite, iron oxides, illumenite, barite, siderite, selstite, dolomite, calcite and combinations thereof (column 11, lines 30-41); and
- (F) a rheology modifier (column 3, lines 33-65), wherein the rheology modifier is a mixture of polycarboxylic fatty acids (column 12, lines 22-31), wherein the mixture of polycarboxylic fatty acids is added in sufficient concentration so that the fatty acid concentration in the drilling fluid is greater than 0.1 pounds per barrel and is up to 5.0 pounds per barrel (column 12, lines 22-31; column 3, lines 33-65).

Van Slyke does not explicitly set forth that the *trimer polycarboxylic fatty acid concentration* is greater than 0.1 pounds per barrel and is up to 5.0 pounds per barrel; however, it appears that the fatty acid mixture in Van Slyke would have inherently satisfied this limitation. This is based on the amounts set forth in: column 12, lines 22-31; column 3, lines 33-65

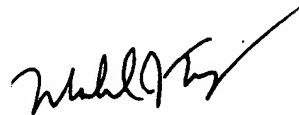
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Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Feely whose telephone number is 571-272-1086. The examiner can normally be reached on M-F 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Michael J. Feely
Primary Examiner
Art Unit 1712

January 22, 2007

MICHAEL FEELY
PRIMARY EXAMINER